

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

12.559 ACRES OF LAND, MORE OR
LESS, SITUATE IN HIDALGO
COUNTY, STATE OF TEXAS; AND
GERARDO MARTINEZ, ET AL.,

Defendants.

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CASE NO. 7:19-CV-405

I, LOREN FLOSSMAN, hereby declare as follows:

1. I am employed as the Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Program Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security. I make this declaration based on my personal knowledge of the matters recited, or based upon information available to me from the files maintained by my office in this matter.

2. The United States has a vital national security interest in controlling its international borders. As part of the ongoing effort to gain operational control of the border and reduce illegal entry, Congress has ordered the construction of physical barriers, roads, lighting, cameras, sensors, and related infrastructure along the United States/Mexico border. Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Public Law 104-208, Div. C, 110 Stat.3009-546, 3009-554 (Sept. 30, 1996) (2000), codified as amended by the REALID Act of 2005, Public Law 109-13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005), the Secure Fence Act of 2006, Public Law 109-367, § 3, 120 Stat. 2638 (Oct. 26, 2006), and the 2008 Consolidated Appropriations Act, Public Law 110-161, Div. E, Title V, § 564 (Dec. 26, 2007), at 8 U.S.C. § 1103 and note. Pursuant

to the foregoing construction authority, the Secretary of Homeland Security has identified locations where such infrastructure would be most practical and effective in securing the United States/Mexico border and deterring smuggling and illegal entry.

3. The Act of Congress approved on March 23, 2018, as Public Law 115-141, div. F, tit. II; 132 Stat. 348 (“Consolidated Appropriations Act of 2018”) appropriated the funds that shall be used for this taking.

4. The subject land in this taking lies in close proximity to the United States/Mexico border.

5. Pursuant to its delegated authority, U.S. Customs and Border Protection, Department of Homeland Security has determined that the subject land is an appropriate location for infrastructure, access roads, and staging and work areas needed for construction of infrastructure that will be practical and effective in securing the border and deterring smuggling and illegal entry. The subject land is located in an area that my agency has designated as “RGV-02” for purposes of the foregoing construction activities.

6. The United States requires prompt access to the subject land so that it can begin the foregoing construction activities.

7. The United States has awarded task orders and issued notices to proceed with material acquisition, fabrication, construction, and all other activities related to RGV-02 barrier construction in an area that includes the subject land. The construction contract for RGV-02 was awarded November 11, 2018. Construction in this project area started on October 1, 2019 and is currently ongoing; construction in specific segments in RGV-02 will start upon availability of the subject land.

8. The United States has fully met its obligation to negotiate with the landowner(s) in good faith but has been unable to come to an agreement with the landowner(s) regarding this matter.

9. The United States will incur significant monetary damages arising from delayed start of construction if possession of the subject land is not obtained promptly.

10. The national security interests of the United States will be harmed if possession of the subject land is not obtained promptly.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 17th day of December, 2019, in Washington, D.C.



LOREN FLOSSMAN
Acquisition Program Manager
Wall Program Management Office
U.S. Border Patrol Program Management Office Directorate
U.S. Border Patrol
U.S. Customs and Border Protection
Department of Homeland Security